

ANALYSIS OF ORIGINAL BILL

Author: O'Connell Analyst: Kristina North Bill Number: SB 1985

Related Bills: See Legislative History Telephone: 845-6978 Introduced Date: 02/19/98

Attorney: Doug Bramhall Sponsor:

SUBJECT: Computer Technology & Equipment Contributions To Schools
Deduction/Conformity

SUMMARY

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would allow taxpayers an augmented charitable contribution deduction for contributing computer technology and equipment to educational institutions.

EFFECTIVE DATE

This bill would apply to taxable or income years beginning on or after January 1, 1998.

LEGISLATIVE HISTORY

AB 2219 (1997), SB 405 (1995/96)

SPECIFIC FINDINGS

Existing federal and state law allow a taxpayer to claim a deduction for a charitable contribution made to a tax exempt organization, including a federal, state, or local government entity and nonprofit groups that are religious, charitable, educational, scientific, literary, or work to prevent cruelty to children or animals. A charitable contribution includes gifts to, or for the use of, tax exempt organizations. These gifts may be in the form of money or property. If property is donated as a charitable contribution, the taxpayer must generally determine the property's fair market value. However, if an item is valued over \$5,000, an appraisal is required to verify its value.

Under **federal and state law**, the amount of the deduction allowable for a taxable or income year with respect to a charitable contribution may be reduced depending on the type of contributed property, the organization to which the property is contributed, and the income of the taxpayer. Generally, the deduction for property contributed that would have resulted in ordinary income being recognized had the property been sold is limited to the basis of the property. Corporations

DEPARTMENTS THAT MAY BE AFFECTED:

___ STATE MANDATE

___ GOVERNOR'S APPOINTMENT

Board Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
___X___ PENDING

Agency Secretary Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
DEFER TO ___

GOVERNOR'S OFFICE USE

Position Approved ___
Position Disapproved ___
Position Noted ___

Department Director Date
Gerald H. Goldberg 3/13/98

Agency Secretary Date

By: Date

are entitled to claim a deduction for charitable contributions, generally limited to 10% of their taxable income (computed without regard to the contributions) for the taxable year.

Federal law provides augmented deductions for certain corporate contributions of inventory property, including corporate contributions of scientific equipment constructed by the taxpayer, provided the original use of such donated equipment is by the donee for research or research training in the United States in physical or biological sciences. Under these special rules, the amount of the augmented deduction available to a corporation making a qualified contribution is equal to its basis in the donated property plus one-half of the amount of ordinary income that would have been realized if the property had been sold. However, the augmented deduction cannot exceed twice the basis of the donated property. S corporations are not eligible donors for purposes of these special rules. Eligible recipients are limited to post-secondary educational institutions, scientific research organizations, and certain other organizations that support scientific research.

The **federal Taxpayer Relief Act (TRA) of 1997** expanded the augmented deduction to include contributions of computer technology and equipment by a C corporation to an educational organization, maintaining a regular faculty and curriculum with an enrolled body of students in attendance where its educational activities are regularly carried on, or to an entity exempt from tax that is organized primarily for the purposes of supporting elementary and secondary education. This provision does not apply to any contributions made after December 31, 1999.

Although an augmented deduction was allowed for the contribution of qualified research property made between 1983 and 1993, current **state law** is not conformed to the augmented deduction provision of federal law, nor the recent expansion by the TRA.

This bill would rely on the federal TRA of 1997 to allow taxpayers a charitable contribution augmented deduction for contributing computer technology and equipment. This bill attempts to modify the TRA to: 1) allow the contribution to be made any educational institution, including but not limited to, public or private institutions, elementary and secondary institutions, or community college 2) specify that refurbished property qualifies; 3) provide the federal contribution termination date would not apply; and 4) allow the augmented deduction to PITL taxpayers.

Policy Consideration

This bill does not limit the deduction to contributions made to educational institutions located in this state.

Implementation Considerations

The department has identified the following concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

Definitions are needed for: "public or private institutions," "elementary and secondary institutions," "community colleges," and "refurbished property." Further definition is needed for "educational institution."

Technical Considerations

Existing state law, in general, conforms to the Internal Revenue Code (IRC) either by incorporating the IRC by reference or by stand alone language which mirrors the federal provision. When applying the IRC for state purposes, the IRC as of the "specified date" must be used, unless a specific provision provides otherwise. State law currently uses the specific date of January 1, 1997. IRC section 170(e)(6) providing a special rule for contributions of computer technology and equipment for elementary or secondary school purposes was enacted on August 5, 1997, by the TRA. Thus, the new sections added by this bill are not technically correct.

This bill attempts to allow the augmented deduction under the PITL by reference to IRC section 170(e)(6). However, since the federal augmented deduction is limited to corporations, the PITL section in this bill does not have any effect.

FISCAL IMPACT

Departmental Costs

With the implementation concerns unresolved, the department is unable to estimate departmental costs.

Tax Revenue Estimate

The revenue impact of this bill is estimated to be as follows:

Estimated Revenue Impact of SB 1985* Taxable/Income Years After 12/31/1997 Enactment Assumed After 6/30/1998 (In \$Millions)			
Fiscal Years	1998/99	1999/00	2000/01
Revenue Impact (Rounded)	(6)	(5)	(5)

*It is assumed that educational institutions must be located in California

Any possible changes in employment, personal income, or gross state product that might result from this bill are not taken into account.

Tax Revenue Discussion

Revenue losses would depend on the amount of additional deductions for computer system contributions to educational institutions and the average marginal tax rates of contributors.

This bill attempts to adopt and broaden federal law by allowing augmented deductions for contributions of computer equipment (including refurbishing) and software by all businesses and to any private or public educational

institution. The revenue impact projection is based on federal estimates for Section 170 (e)(6) of the Internal Revenue Code (TRA of 1997) and increased by 25% to reflect the modifications this bill would make to the federal statute. The revenue estimate assumes the technical correction of this bill.

BOARD POSITION

Pending.